

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/14/2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TOWAKI KOMATSU,

Plaintiff,

-against-

THE CITY OF NEW YORK, *et al.*,

Defendants.

20-CV-10942 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on August 3, 2021, the Court imposed filing restrictions on Plaintiff, including that he must seek leave of Magistrate Judge Lehrburger before making further filings in this case, Dkt. 79;

WHEREAS on October 10, 2021, Plaintiff inquired “whether it may be possible for [him] to be granted immediate partial summary judgment for some of [the] claims against some of the defendants as a means to enable [him] to have sufficient funds to immediately travel to Japan to pay [his] proper respect to [his] father,” Letter, Dkt. 133;

WHEREAS on October 13, 2021, Judge Lehrburger granted Plaintiff leave to file the letter request concerning partial summary judgment, Endorsement, Dkt. 136;

WHEREAS Judge Lehrburger construed Plaintiff’s request as an application to file a motion for partial summary judgment, *id.*; and

WHEREAS Judge Lehrburger noted that because Plaintiffs’ request concerned a dispositive motion issue, the letter request should be considered by the undersigned, *id.*;

IT IS HEREBY ORDERED that Plaintiff’s request to move for partial summary judgment is DENIED. The Court sends its condolences to Plaintiff on the passing of his father. But a party’s economic situation is not a factor to consider when determining whether defendants

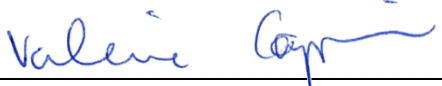
are liable in an action. In this matter, Defendants have yet to answer the complaint. It is entirely premature for the parties to file motions for summary judgment. Although Plaintiff may think that liability is apparent, the Court will give Defendants the opportunity to defend in this matter.

IT IS FURTHER ORDERED that the Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

The Clerk of Court is respectfully directed to mail a copy of this Order to the Plaintiff and to note the mailing on the docket.

SO ORDERED.

Date: October 14, 2021
New York, NY



VALERIE CAPRONI
United States District Judge